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C O N F I D E N T I A L SECTION 01 OF 02 MINSK 000363

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SUBJECT: LAWYERS WILL ENCOURAGE POLITICAL PRISONERS TO SEEK CLEMENCY

REF: MINSK 352

Classified By: Ambassador Karen Stewart for reason 1.4 (d)

Summary

11. (C) Prominent human rights lawyers and the family members of political prisoners expressed cautious optimism after hearing the outcome of the April 25 meeting between EUR DAS Kramer and Presidential Administration Deputy Head Natalya Petkevich in Minsk. Pol/Econ Chief relayed to the group of advocates Petkevich's suggestion to Kramer that the political prisoners apply for clemency. A few lawyers initially viewed submitting an application for clemency a pointless exercise, given that the regime could at any moment release the imprisoned activists if Lukashenko gave the order, but they all agreed in the end to urge the political prisoners to submit the necessary paperwork. The lawyers and family members correctly reasoned that if the regime rejects or fails to respond to the clemency applications, the only likely consequence will be additional sanctions applied against the regime. End summary.

Lawyers, Relatives Learn Details of Kramer Meetings

12. (C) On May 4, Pol/Econ Chief convened a meeting with the legal advocates and family members of political prisoners and opposition activists currently under investigation. Pol/Econ Chief relayed the outcome of DAS David Kramer's clear message to Presidential Administration (PA) Deputy Head Natalya Petkevich and other senior officials to, among other things, release immediately all political prisoners or face additional sanctions (reftel). The lawyers and family members understood that, without promising anything, Petkevich suggested that the political prisoners submit applications for pardon. Pol/Econ Chief noted that when Kramer underscored the unlikelihood that political prisoners would be willing to admit wrongdoing in their pardon applications, Petkevich acknowledged the difficulty and encouraged the prisoners to submit their applications even without admitting guilt. Pol/Econ Chief added that Ambassador subsequently made clear to her PA contact that the GOB should also halt its official investigations of activists suspected of politically motivated crimes.

Process For Seeking Clemency "Is Not Easy"

13. (C) Stremkovskaya asserted that Petkevich was most likely referring to the process for granting "clemency" ("pomilovanie"), and not to the process for granting "amnesty." The latter requires the administrator of a prison

-- and not the prisoner -- to submit a case to a local court.

Only the court can decide to reduce the activist's prison sentence. Unless the prisoner falls into a certain category, such as pensioner, veteran, or Chernobyl disaster relief worker, the maximum reduction of a sentence can be a year. On the other hand, "clemency" involves only Lukashenko and the PA, and there are no special categories or limits on sentence reduction. However, Stremkovskaya and Oleg Volchek, legal advocate for imprisoned opposition leader Aleksandr Kozulin, stressed that the clemency route is also filled with technical complications because the prisoner must confess his guilt and only the prisoner (not his advocate) can apply.

"This is a Pointless Exercise..."

14. (C) Stremkovskaya and Volchek initially tried to encourage the other lawyers and family members present not to "fall into this trap" of needlessly submitting paperwork when the government simply has to make a choice to respect democratic norms. Political will, and not additional paperwork, is the fundamental obstacle to the release of the political prisoners. Furthermore, Stremkovskaya noted that the PA could direct the Supreme Court to reopen the cases of the political prisoners and search for any "irregularities" in the court trial or verdict. This approach would obviate the need for the political prisoners to "humiliate themselves" by seeking clemency for ridiculous convictions.

15. (C) Volchek added that neither the opposition nor the international community should be focusing on political prisoners; the true problem lies in the unjust legal system. Even if the current political prisoners were released, Volchek and youth opposition lawyer Aleksandr Galiyev

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suspected that the regime would throw into prison another group of activists. Pol/Econ Chief acknowledged this danger and stressed that the USG has sent private and public messages to the regime that the number of political prisoners must be reduced to and remain at zero to avoid further sanctions.

"...But We'll Pass The Word"

16. (C) Despite the initial concerns of Stremkovskaya and Volchek, the lawyers and family members agreed that the regime's possible willingness to compromise on political prisoners was worth pursuing. Established human rights defender Vladimir Labkovich speculated that the GOB may be looking for a way to "save face" by requiring the political prisoners to jump through the necessary legal hoops before releasing them. Labkovich said he was prepared to help the regime save face by encouraging political prisoners to apply for clemency. Olga Kozulina, daughter of Kozulin, noted that the lawyers and relatives owed it to the imprisoned activists to take any and all steps to gain the release of their "loved ones." The lawyers and family members agreed to try to convince the imprisoned activists to fill out the clemency application, but without making any confession of guilt. Volchek and Stremkovskaya predicted that some political prisoners, especially Kozulin, would refuse to submit an application.

17. (C) Tatyana Klimova, wife of detained but yet-to-be-convicted activist Andrey Klimov, and Galiyev reiterated that the clemency option did not apply to activists who have yet to be convicted. They urged the USG to press the regime to drop its investigations or cases against those activists.

Comment

18. (C) The lawyers and family members have serious doubts --

as do we -- that the GOB will quickly and favorably review all the clemency applications. However, they were grateful that the USG was willing to engage influential GOB actors on this issue directly and seemed committed to urging the political prisoners to file clemency applications.

Stewart